

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

IN RE NATIONAL PRESCRIPTION  
OPIATE LITIGATION

MDL No. 2804

Case No. 17-md-2804

This document relates to:

Hon. Dan Aaron Polster

*“Track One Cases”*

**NOTICE OF SERVICE OF MANUFACTURER DEFENDANTS’  
OPPOSITION TO PLAINTIFFS’ MOTION FOR PARTIAL  
SUMMARY ADJUDICATION THAT DEFENDANTS DID NOT  
COMPLY WITH THEIR DUTIES UNDER THE FEDERAL  
CONTROLLED SUBSTANCES ACT TO REPORT SUSPICIOUS  
OPIOID ORDERS AND NOT SHIP THEM**

Pursuant to the Directions Regarding Filing of Briefs Under Seal, ECF No. 1719,

Manufacturer Defendants<sup>1</sup> hereby provide notice that on July 31, 2019, it served unredacted copies of the following documents on all Parties, the Court, and the Special Masters:

- Manufacturer Defendants’ Opposition to Plaintiffs’ Motion for Partial Summary Judgment Adjudication That Defendants Did Not Comply With Their Duties Under the Federal Controlled Substances Act To Report Suspicious Opioid Orders And Not Ship Them (“Manufacturer Defendants’ Opposition”);
- Declaration of William T. Davison in Support of Manufacturer Defendants’ Opposition along with Exhibits 1 to 26;

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<sup>1</sup> Manufacturer Defendants joining this Opposition include: Purdue Pharma, L.P.; Purdue Pharma, Inc.; The Purdue Frederick Company, Inc.; Endo Health Solutions Inc.; Endo Pharmaceuticals Inc.; Par Pharmaceutical, Inc.; Par Pharmaceutical Companies, Inc.; Janssen Pharmaceuticals, Inc. f/k/a Ortho-McNeil-Janssen Pharmaceuticals, Inc. f/k/a Janssen Pharmaceutica, Inc.; Johnson & Johnson; Noramco, Inc.; Teva Pharmaceutical Industries, Ltd.; Teva Pharmaceuticals USA, Inc.; Cephalon, Inc.; Allergan plc f/k/a Actavis plc; Allergan Finance, LLC f/k/a Actavis, Inc. f/k/a Watson Pharmaceuticals, Inc.; Allergan Sales, LLC; Allergan USA, Inc.; Watson Laboratories, Inc.; Warner Chilcott Company, LLC; Actavis Pharma, Inc., f/k/a Watson Pharma, Inc.; Actavis South Atlantic LLC; Actavis Elizabeth LLC; Actavis Mid Atlantic LLC; Actavis Totowa LLC; Actavis LLC; Actavis Kadian LLC; Actavis Laboratories UT, Inc. f/k/a Watson Laboratories, Inc.-Salt Lake City; Actavis Laboratories FL, Inc., f/k/a Watson Laboratories, Inc.-Florida; Mallinckrodt plc; Mallinckrodt LLC; and SpecGx LLC.

Teva Pharmaceutical Industries Ltd., Allergan plc f/k/a Actavis plc, and Mallinckrodt plc are respectively an Israeli corporation, Irish holding company, and Irish company that are not subject to and contest personal jurisdiction for the reasons explained in their pending motions to dismiss for lack of personal jurisdiction; they are specially appearing to join this Opposition as a result of the Court’s deadline to file oppositions to dispositive and *Daubert* motions, and, thus, they do not waive and expressly preserve their pending personal jurisdiction challenges.

- Declaration of Mara Cusker Gonzalez in Support of Manufacturer Defendants' Opposition along with corresponding Exhibits 27 to 34;
- Declaration of Steven A. Reed in Support of Manufacturer Defendants' Opposition along with corresponding Exhibits 35 to 39;
- Declaration of Jennifer D. Cardelus in Support of Manufacturer Defendants' Opposition along with corresponding Exhibits 40 to 49;
- Declaration of Timothy W. Knapp in Support of Manufacturer Defendants' Opposition along with corresponding Exhibits 50 to 63;
- Declaration of Sean Morris in Support of Manufacturer Defendants' Opposition along with corresponding Exhibits 64 to 83; and
- Summary Sheet for Manufacturer Defendants' Opposition (also attached hereto as Exhibit A).

Dated: July 31, 2019

Respectfully Submitted,

/s/ Mark S. Cheffo

Mark S. Cheffo  
DECHERT LLP  
Three Bryant Park  
1095 Avenue of the Americas  
New York, NY 10036  
Tel: (212) 698-3500  
Mark.Cheffo@dechert.com

*Counsel for Defendants Purdue Pharma  
L.P., Purdue Pharma Inc., and The Purdue  
Frederick Company*

*Co-Liaison Counsel for the Manufacturer  
Defendants*

/s/ Carole S. Rendon

Carole S. Rendon  
BAKER & HOSTETLER LLP  
Key Tower 127 Public Square, Suite 2000  
Cleveland, OH 44114-1214  
Telephone: (216) 621- 0200  
Fax: (216) 696-0740

crendon@bakerlaw.com

*Counsel for Defendants Endo Health  
Solutions Inc. and Endo Pharmaceuticals  
Inc.; Par Pharmaceutical, Inc., and Par  
Pharmaceutical Companies, Inc.*

*Co-Liaison Counsel for the Manufacturer  
Defendants*

### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 31st day of July 2019, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF System. Copies will be served upon counsel of record by, and may be obtained through, the Court CM/ECF System.

/s/ Brien T. O'Connor

Brien T. O'Connor  
ROPES & GRAY LLP  
Prudential Tower  
800 Boylston St.  
Boston, MA 02199-3600  
(617) 235-4650  
Brien.O'Connor@ropesgray.com

# EXHIBIT A

**SUMMARY SHEET FOR MANUFACTURER DEFENDANTS' OPPOSITION TO  
PLAINTIFFS' MOTION FOR PARTIAL SUMMARY ADJUDICATION THAT  
DEFENDANTS DID NOT COMPLY WITH THEIR DUTIES UNDER THE FEDERAL  
CONTROLLED SUBSTANCES ACT TO REPORT SUSPICIOUS OPIOID ORDERS  
AND NOT SHIP THEM**

**Motion Name:** Manufacturer Defendants' Opposition to Plaintiffs' Motion for Partial Summary Judgment Adjudication That Defendants Did Not Comply With Their Duties Under the Federal Controlled Substances Act To Report Suspicious Opioid Orders And Not Ship Them

**Moving Parties:** Manufacturer Defendants<sup>1</sup>

**Related Docket Entries:** 1910/1924 (Plaintiffs' Motion for Partial Summary Adjudication)

**Summary:** Plaintiffs have failed to produce any evidence that the Manufacturing Defendants did not comply with the regulatory and statutory requirements for manufacturers under the Federal Controlled Substances Act.

1. Plaintiffs have not alleged a single suspicious order shipped to Plaintiff Counties by Manufacturer Defendants that should have been reported and/or withheld, but instead point to shipments from distributors to pharmacies, or prescriptions written by physicians to patients. Thus, regardless of whether there is a duty under the Controlled Substances Act to withhold suspicious orders, Plaintiffs' claims against Manufacturers fail.

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<sup>1</sup> Manufacturer Defendants joining this Opposition include: Purdue Pharma, L.P.; Purdue Pharma, Inc.; The Purdue Frederick Company, Inc.; Endo Health Solutions Inc.; Endo Pharmaceuticals Inc.; Par Pharmaceutical, Inc.; Par Pharmaceutical Companies, Inc.; Janssen Pharmaceuticals, Inc. f/k/a Ortho-McNeil-Janssen Pharmaceuticals, Inc. f/k/a Janssen Pharmaceutica, Inc.; Johnson & Johnson; Noramco, Inc.; Teva Pharmaceutical Industries, Ltd.; Teva Pharmaceuticals USA, Inc.; Cephalon, Inc.; Allergan plc f/k/a Actavis plc; Allergan Finance, LLC f/k/a Actavis, Inc. f/k/a Watson Pharmaceuticals, Inc.; Allergan Sales, LLC; Allergan USA, Inc.; Watson Laboratories, Inc.; Warner Chilcott Company, LLC; Actavis Pharma, Inc., f/k/a Watson Pharma, Inc.; Actavis South Atlantic LLC; Actavis Elizabeth LLC; Actavis Mid Atlantic LLC; Actavis Totowa LLC; Actavis LLC; Actavis Kadian LLC; Actavis Laboratories UT, Inc. f/k/a Watson Laboratories, Inc.-Salt Lake City; Actavis Laboratories FL, Inc., f/k/a Watson Laboratories, Inc.-Florida; Mallinckrodt plc; Mallinckrodt LLC; and SpecGx LLC.

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2. There is no duty for manufacturers to monitor the orders of their customers' customers. The requirement does not appear in the Controlled Substances Act, its implementing regulations, nor any guidance issued by the Drug Enforcement Agency.

3. Independently, Plaintiffs' motion should be denied for each of the Manufacturer Defendants, as there are disputes of material fact relating to Plaintiffs' allegations against each Manufacturer Defendant.

**Opposition Date:** July 31, 2019

**Reply Date:** August 16, 2019

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I HEREBY CERTIFY that on this 31st day of July 2019, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF System. Copies will be served upon counsel of record by, and may be obtained through, the Court CM/ECF System.

/s/ Brien T. O'Connor

Brien T. O'Connor  
ROPES & GRAY LLP  
Prudential Tower  
800 Boylston St.  
Boston, MA 02199-3600  
(617) 235-4650  
Brien.O'Connor@ropesgray.com